

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

* * * Case No. 3:18-cr-00019-LRH-CLB

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v.

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STONEY PRIOR,

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Defendant.

ORDER

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On September 3, 2020, the Grand Jury returned a superseding indictment on two counts of Second-Degree Murder Within Indian Country, pursuant to 18 U.S.C. §§ 1111, 1151, 1153, for the killings of A.S. and A.H., two Native American women on the tribal lands of the Fort McDermitt Indian Reservation on or about January 31, 2018. ECF No. 105. Trial is set to begin December 7, 2020, with jury selection to take place in Elko, Nevada, on December 3 and 4, 2020. ECF No. 137.

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The Court has been closely monitoring the COVID-19 pandemic. Recently, there has been an increase in the spread of the virus within both Washoe and Elko Counties. As of November 5, 2020, Washoe County had been flagged for six consecutive weeks, and Elko County for three weeks, for having an elevated risk of transmission of Covid-19, high case rates per 100,000 residents, and high test-positivity rates.¹ In an attempt to curb these numbers, Washoe County has

¹ Press Release, Meghan Delaney, Communications Director, Nevada Health Response, Covid-19 Mitigation and Management Task Force reviews, takes action on high transmission risk counties (Nov. 5, 2020), <https://nvhealthresponse.nv.gov/wp-content/uploads/2020/11/11.5.20-Task-Force-Press-Release.pdf>.

1 limited public gatherings to 50 persons or less for all indoor and outdoor events. *Id.* On November
 2 10, 2020, Governor Sisolak asked Nevadans to voluntarily stay home for the next two weeks, his
 3 “Stay-At-Home 2.0” directive, in the hope that he will not need to issue additional lockdown
 4 orders.² On November 12, 2020, Chief Judge Du issued General Order 2020-03, postponing all
 5 jury trials until further notice and directing presiding judges to address whether particular cases
 6 need a continuance. Other federal district courts have issued similar orders postponing civil and
 7 criminal jury trials.³

8 Given these considerations, the Court finds that it would not be safe or prudent to conduct
 9 jury selection and an in-person jury trial on the scheduled dates. This trial provides unique
 10 challenges, exacerbated by the pandemic: the Court must summon over 100 prospective jurors to
 11 appear at the Elko Convention Center, in violation of the 50 person Washoe County gathering
 12 mandate, for two prospective days of jury selection. The Court would then need the selected jurors
 13 to travel to Reno and stay in a hotel for up to 2 weeks, all while numbers of COVID-19 positive
 14 persons continues to rise and in violation of the Governor’s voluntary stay at home directive. The
 15 Court cannot find that the ends of justice are served by putting so many Nevadans at such a high
 16 risk of contracting the virus.

17 IT IS THEREFORE ORDERED that the December 7, 2020 trial, and all related trial dates,
 18 are **VACATED**. Because the ends of justice served by this continuance outweigh the best interests
 19 of the public and Defendant in a speedy trial, the Court finds this continuance is authorized under
 20 the Speedy Trial Act, and the time between now and the next trial date excludable under 18 U.S.C.
 21 § 3161(h)(7).

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 24 ² Riley Snyder and Megan Messerly, *Sisolak urges Nevadans to limit nonessential activities under ‘Stay at*
25 Home 2.0’ or face further restrictions in two weeks, THE NEVADA INDEPENDENT (November 10, 2020),
<https://thenevadaindependent.com/article/sisolak-urges-nevadans-to-limit-nonessential-activities-under-stay-at-home-2-0-or-face-further-restrictions-in-two-weeks>.

26 ³ See United States District Court, District of Colorado, General Order 2020-18 (issued October 15,
 27 2020), <https://www.washoecounty.us/outreach/2020/11/2020-11-11-libclsr.php>; United States District
 Court, Northern District of New York, General Order #58 (Revised October 8, 2020),
<https://www.washoecounty.us/outreach/2020/11/2020-11-11-libclsr.php>; United States District Court,
 Southern District of Ohio, General Order 20-31 (dated October 30, 2020),
<https://www.ohsd.uscourts.gov/sites/ohsd/files/General%20Order%202020-31.pdf>.

1 IT IS FURTHER ORDERED that the parties are to "meet and confer" concerning three
2 mutually agreed upon dates in 2021 for a continuance of this trial. A Zoom status conference will
3 be held at the time previously scheduled for calendar call on Thursday, November 19, 2020, at
4 1:30 p.m.

5 IT IS SO ORDERED.

6 DATED this 13th day of November, 2020.

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9 LARRY R. HICKS
10 UNITED STATES DISTRICT JUDGE
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